IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4494 OF 2005

Shri. Dattatraya Rajaram Kute & Anr. ...Applicants

Vs.

The State of Maharashtra ...Respondent

Mr.Prakash Naik for the Applicant.
Mr. K.V. Saste, A.P.P.for the Respondent.

CORAM : A.S.OKA, J.
DATED : JULY 20, 2005.

P.C.:

1. Heard Advocate appearing for the Applicants and the learned A.P.P. for the State. The Applicants are co-accused in an offence registered under sections 465, 467, 468, 471, 406, 420, 255, 260 and 120-B of the Indian Penal Code. F.I.R. was lodged by one Akaram Bhise on behalf of Satara Sahkari Bank Ltd. The F.I.R. was lodged alleging that the documents including a registered document produced by one Sunil Shinde for the purpose of obtaining housing loan from the Bank were found to be fabricated. It was alleged that loan was taken by Sunil Shinde for purchase of a flat in a co-operative society and the loan was given to him by a Pay Order issued in the name of the builder. It was later on found that said Sunil Shinde was not holding the said flat in question. The case of the prosecution is even the franking of the stamps on the said agreement relating to the flat was bogus.

2. The Applicants are father and son. The Applicants were arrested in May, 2005. The learned Advocate for the Applicant submitted that there is no

material available against the Applicants to connect them with the offence complained of. He submitted that even assuming that recovery made at the instance of the Applicant No.1 is correct, now all the material is in custody of the police and detention of the Applicant No.1 is not required. He submitted that so far as the Applicant No.2 is concerned, there is no material against him and therefore, applicants are entitled to be enlarged on bail.

3. The learned A.P.P. has invited my attention to the panchnama of recovery and other relevant documents. The recovery was made at the instance of the Applicant No.1 from the place of the residence of both the Applicants. The recovery is of number of seals of Sub-registrars of Assurances at various offices, seals of various Municipal Corporations, rubber stamps of offices of Sub-registrar, Town planner of a Municipal Council, and the Deputy Superintendent of stamps. Rubber stamps which are affixed on the documents at the time of registration of the documents are also found. The recovery is also made of rubber stamps of large number of advocates. The recovery includes the seals of various Co-operative Housing Societies in Districts Thane and Mumbai. There are rubber stamps of various business concerns and rubber stamps of various medical practitioners from Mumbai and Thane district. Apart from all these articles, the recovery was of printed

letter-heads of number of advocates, medical practitioners and builders. Apart from these documents blank forms of birth certificates, agreements executed by different builders and Co-operative Societies in favour of purchasers were recovered. I am referring only to some of the articles which are referred to in the panchnama.

4. At this stage, when the investigation is still in progress there is no reason to discard the material which connects the Applicants with the offences alleged against the Applicants under sections 467 and 468 of the Indian Penal Code. The maximum punishment under section 467 of the said Code is for life. If the Applicants are found to be in possession of such large number of articles, I cannot take a view different from the view which is taken by the learned Sessions Judge. It is noted here that investigation is still in progress and chargesheet is yet to be filed. Hence, Application is rejected.

JUDGE